

Where a creditor neglects, on being actually notified, to come in, under a creditor's suit, against the estate of the deceased as his principal debtor, such debtor's sureties will be discharged.

A discount in bar, if not distinctly specified and admitted, must be shewn and established by him who is to benefit by it, or it will be rejected.

Where there has been a partnership, the partnership debts must be first paid out of the joint estate; and the separate debts first paid out of the separate estate.

Where it appears doubtful upon the face of the voucher, the claimant must shew whether the deceased was principal or surety.

Where the deceased was bound only as a surety, the principal and co-surety, if there be one, must be shewn to *be insolvent.

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The original bond, bill, or note, should be produced; or, if lost, an authenticated copy, or other proof.

No claim can be admitted which did not exist, as such, against the deceased. Claims withdrawn, to be restated, considered in the nature of an amended bill.

Where creditors come in so late as to require the distribution to be re-cast, they must defray the expense of such re-statement.

THIS was a creditor's bill filed on the 15th of July, 1826, by William Simmons, Richard Simmons, James Owens, and John Sellman, against Benjamin Tongue, Elizabeth Tongue, Sarah Tongue, Thomas I. Hall, John N. Watkins, and William Ennis. The bill states, that the late Thomas Tongue, at the time of his death, was indebted to the plaintiff William Simmons by notes and open account to the amount of \$448.17; to the plaintiff Richard Simmons by note in the sum of \$500; to the plaintiff James Owens in the sum of \$304.15 on an open account; and to the plaintiff John Sellman on open account and a note in the sum of \$356.59. That the plaintiffs Owens and Sellman had endorsed for the late Thomas Tongue several notes to the amount of \$5,000 and upwards, which had been negotiated at The Farmers Bank of Maryland, and for which they were then liable; that the plaintiff Sellman had become surety for the late Thomas Tongue, in a testamentary bond given by him as executor of his father, from whose estate there was still due by the late Thomas Tongue to his sister, the sum of \$4,000, for which this plaintiff was liable; that in the month of January, 1826, Thomas Tongue died intestate, leaving the defendants Benjamin Tongue, Elizabeth Tongue, Sarah Tongue and Thomas Tongue, his infant children and heirs-at-law; that administration had been granted to the defendant Thomas I. Hall; that the personal estate of the intestate would not be sufficient to pay his debts; that he had died seised of several parcels of land; and, in his life-time, had purchased a tract of land, sold under a decree of this Court to satisfy a mortgage which had been assigned to him and the defendant Thomas I. Hall; that the sale of this

(b) See *Townshend v. Duncan*, 2 Bland, 45, note.